

Kolman, Joe

From: Flere, Bryan P NWO [Bryan.P.Flere@usace.army.mil]
Sent: Tuesday, March 09, 2010 3:22 PM
To: Kolman, Joe
Cc: Thomas, Kimberly S NWO; Jones, Brad N NWO; Ray, David P NWO; Eckert Uptmor, Kayla A NWO; Behm, Randall L NWO
Subject: RE: Great Falls, MT Flood Damage Reduction Project

Joe,

Attached are comments pertaining to the Great Falls, MT Flood Damage Reduction Project regarding the USACE PL 84-99 Program and FEMA certification questions posed to USACE.

1. The Great Falls Flood Reduction Project (FDRP) for the Sun River at Great Falls, Montana, was authorized by Public Law 85-500, in accordance with the recommendation of the Chief of Engineer in House Document Numbered 343, 85th Congress, 2nd Session, dated 3 July 1958. The FDRP construction was completed and turned over to the non-federal sponsor (West Great Falls Flood Control and Drainage District) for operations and maintenance on June 25, 1987. Since that time, the non-federal sponsor has been performing Operation and Maintenance activities associated with the FDRP. A Local Cooperation Agreement has been signed between the U.S. Army Corps of Engineers (USACE) and the non-federal sponsor detailing the requirements for the sponsor to perform to maintain the FDRP. Upon completion of the project, the FDRP was enrolled in the USACE PL 84-99 Program, which rehabilitates the FDRP if damaged by a high water flood event. The Great Falls project has been inspected annually by USACE personnel since being turned over to the non-federal sponsor in 1987. The inspection ratings provided by USACE ranged from "Acceptable" to "Minimally Acceptable", these eligibility ratings maintain an "Active" status in the PL 84-99 Program for the FDRP. Therefore, if the project was damaged by a high water flood event, USACE would fund 100 percent of the FDRP rehabilitation cost.

2. The following levee certification information is provided as frequently asked questions regarding the Great Falls Levee System and FEMA Certification.

Question 1. (a) What are the new FEMA certification criteria? (b) Is there a way for the drainage district to get an extension?

Response. (a). In accordance with FEMA Procedure Memorandum 43, dated September 25, 2006, FEMA submits to the levee owner and impacted communities a Provisionally Accredited Levee (PAL) agreement for recertifying existing accredited levees. The levee owner and impacted communities have 90 days to review, sign and return the PAL agreement to FEMA indicating that the full documentation for Title 44 CFR Section 65.10 will be provided within 24 months from the 91st day following the date of the initial PAL notification letter. If the signed agreement is not returned to FEMA within 90 days the levee is no longer eligible for the PAL designation and the area located landward of the levee will be mapped as a Significant Flood Hazard Area.

(b) In accordance with FEMA Procedure Memorandum 53, dated April 24, 2009, FEMA will not grant extensions to the 24-month PAL processing period.

Question 2. Under what circumstances does USACE certify levee systems?

Response. In accordance with the 16 August 2006 Memorandum signed by MG Don Riley, Subject: Authority and Funding Guidance for USACE Levee Certification Activities:

"2. Authority

- a. USACE may perform levee certification determinations on USACE owned, operated, and maintained levees as part of its operation and maintenance program for those projects.
- b. At the request of a non-Federal sponsor, USACE may perform levee certification determinations for the levee systems that are inspected under the Inspection of Completed Works (ICW) Program.
- c. For levees not constructed by USACE which are active in the Flood Control and Coastal

Emergency's Rehabilitation & Inspection Program (RIP), USACE may perform levee certification determinations for those projects only at the request of another Federal agency under the Economy Act.

d. USACE may perform levee certification determinations for levees constructed by another Federal agency at the request of that agency under the Economy Act.

e. USACE may not perform levee certification determinations on levees constructed by a non-Federal entity that are not active in the RIP.

f. For levees described above in paragraphs 2(b)-2(d), if reasonable and expeditious USACE may provide support for or perform levee certification determinations consistent with 10USC 3036(d) and ER 1140-1-211, paragraph 10(b)."

"3. Funding

a. For USACE owned, operated, and maintained levees, USACE may perform levee certification determinations using part of its operation and maintenance funds for those projects subject to the availability of funds for that purpose and consistent with the statutory reprogramming rules.

b. For USACE designed and constructed levees or levees that have been authorized to be incorporated into a USACE Federal system and that are being operated and maintained by a non-Federal sponsor, USACE may perform levee certification determinations using ICW program funds, subject to the availability of funds for that purpose and consistent with the statutory reprogramming rules.

c. For non-Federal levees active in USACE's RIP, USACE may perform levee certification determinations as requested by another Federal agency through the Economy Act and funding must be provided by the requesting agency.

d. For other Federal agency levees, USACE may perform levee certification determinations as requested by another Federal agency through the Economy Act and funding must be provided by the requesting agency.

e. For levees that have recently undergone USACE studies/design or are being considered in an active study/design phase, USACE may perform activities, such as documentation and data preparation, that would help facilitate the levee certification determination after construction using project funds. The cost for these activities will be cost shared in accordance with the feasibility or design agreement. This partner expectation should be identified early in the planning or design phases and is subject to availability of project funds.

f. For levees described above in paragraphs 3(b)-3(e), if reasonable and expeditious, USACE may provide support for or perform levee certification determinations on a reimbursable basis consistent with 10 USC 3036(d) and ER 1140-1-211, paragraph 10(b)."

"4. Certification determinations may not be performed under the Floodplain Management Services (FPMS) Program. FPMS funds may, however, be used to provide support for analyses needed for levee certification determinations by others. Voluntary contributions may be accepted from State and local governments for the purpose of expanding the scope of the services requested in accordance with ER 1105-2-100, Appendix G, Section V."

"5. If a district office is considering a cost shared study, such as a Section 216, Review of Completed Projects (ER 1165-2-119), General Investigation (ER 11-2-220), or General Reevaluation Report (ER 1105-2-100), for a project area containing an existing levee, the study may include analyses needed for levee certification determination. A district office should not conduct a Section 216 study for the exclusive purpose of performing a levee certification determination."

Current USACE Policy does not fund levee certification with Inspection of Completed funding as stated in a Memorandum, dated 08 May 2009, and signed by Steven Stockton, SUBJECT: Revised Guidance for the Prioritization of Fiscal Year 2009 and FY 2010 Levee Safety Program Funds states, "Levee certification determinations for the National Flood Insurance Program will not be funded with Levee Safety Program inspections funds or ARRA funds. USACE policy is that funding for certification is a non-federal responsibility unless there is USACE Operations and Maintenance (O&M) responsibility. However, districts may fund activities to provide existing, available information to assist the sponsors' certification efforts."

I hope this provides some assistance.

Bryan Flere, P.E.
Levee Safety Program Manager
Omaha District - CENWO-ED-GA

-----Original Message-----

From: Kolman, Joe [mailto:jkolman@mt.gov]
Sent: Tuesday, March 09, 2010 11:52 AM
To: Flere, Bryan P NWO
Subject: RE: Great Falls, MT Flood Damage Reduction Project

Thanks Bryan.

Are you going to send me a copy of the letter you sent to the congressional delegation?

And I was hoping for something that I could hand out that explains what you told me about how the Corps inspections do not satisfy the FEMA requirements.

Thanks for you help.

From: Flere, Bryan P NWO [mailto:Bryan.P.Flere@usace.army.mil]
Sent: Monday, March 08, 2010 4:49 PM
To: Kolman, Joe
Cc: Thomas, Kimberly S NWO; Ray, David P NWO; Uptmor, Louis E NWO; Jones, Brad N NWO
Subject: Re: Great Falls, MT Flood Damage Reduction Project

Joe,

Provided below is a history of the Great Falls FDRP regarding the USACE PL 84-99 Program.

The Great Falls Flood Reduction Project (FDRP) for the Sun River at Great Falls, Montana, was authorized by Public Law 85-500, in accordance with the recommendation of the Chief of Engineer in House Document Numbered 343, 85th Congress, 2nd Session, dated 3 July 1958. The FDRP's construction was completed and the project turned over to the non-federal sponsor (West Great Falls Flood Control and Drainage District) for operations and maintenance on June 25, 1987. Since that time, the non-federal sponsor has been performing Operation and Maintenance activities associated with the FDRP. A Local Cooperation Agreement has been signed between the U.S. Army Corps of Engineers (USACE) and the non-federal sponsor detailing the requirements for the sponsor to perform to maintain the FDRP. Upon completion of the project, the FDRP was enrolled in the USACE PL 84-99 Program, which rehabilitates the FDRP if damaged by a high water flood event. The Great Falls project has been inspected annually by USACE personnel since being turned over to the non-federal sponsor in 1987. The inspection ratings provided by USACE ranged from "Acceptable" to "Minimally Acceptable", these eligibility ratings maintain an "Active" status for the project in the PL 84-99 Program. Therefore, if the project was damaged by a high water flood event, USACE would fund 100 percent of the Federal FDRP rehabilitation cost.

Give me a call to discuss.

Bryan P. Flere, P.E.
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Omaha District - CENWO-ED-GA
(402) 995-2227